

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Midwest Generation Energy Services, LLC	:	
	:	
Application for Certificate of Service	:	Docket No. 02-0740
Authority under Section 16-115 of the	:	
Public Utilities Act	:	

Direct Testimony on Rehearing of

**AKBAR JAZAYERI**

Director of Revenue and Tariffs Division  
Regulatory Policy and Affairs Department  
Southern California Edison Company

On Behalf of  
Midwest Generation Energy Services, LLC

March 21, 2003

1   **Q.     Please state your name and business address.**

2   A.     My name is Akbar Jazayeri. My business address is 2244 Walnut Grove Avenue,  
3           Rosemead, California 91770.

4   **Q.     By whom are you employed and in what capacity?**

5   A.     I am the Director of Revenue and Tariffs Division in the Regulatory Policy and Affairs  
6           ("RP&A") Department of Southern California Edison Company ("SCE"). My current  
7           responsibilities include directing all California Public Utilities Commission ("CPUC")  
8           jurisdictional ratemaking, revenue requirements, revenue forecasting, pricing and tariff  
9           functions. I also direct the activities of the Federal Energy Regulatory Commission  
10          ("FERC") Rates and Regulations Section of RP&A Department. In my various positions  
11          at SCE, I have been heavily involved in the implementation of the California  
12          restructuring program during 1997 and 1998, and subsequent modifications to that  
13          program resulting from the California energy crisis of 2000 and 2001.

14  **Q.     Please describe your background and professional affiliation.**

15  A.     I joined SCE in 1982 as a Market Analyst in the Conservation and Load Management  
16          Department. My areas of responsibility included evaluation of load impacts and  
17          persistence of various conservation measures and analysis of appliance choice by  
18          residential customers. Starting in 1984, I worked as a Load Research Analyst for two  
19          years. In this position I was involved in sample design and estimation of load profiles for  
20          various customer classes, research in alternative sample design methodologies, and  
21          evaluation of load characteristics of cogenerating customers. I then worked as a  
22          Regulatory Specialist for two and one-half years. In that capacity, I coordinated the

estimation of present and marginal cost revenues and was involved in various rate design functions. I held various supervisory and management positions in the Revenue and Tariffs Division prior to assuming the position of Manager of Pricing and Tariffs in January of 1998. I was promoted to my current position in March 2001. I have previously testified before the CPUC and the FERC.

I have a Ph.D. degree in economics from the University of Southern California (USC).

**Q. What is the purpose of your testimony?**

A. The purpose of my testimony is to provide an overview of the manner in which SCE, Midwest Generation Energy Services' ("MGES") affiliate, provides delivery services to its customers.

**Q. Are you familiar with the manner in which SCE provides delivery services to its customers?**

A. Yes. As the Director of Revenue and Tariffs, I have a thorough understanding of both the regulatory structure in California and the manner in which SCE provides delivery services to its customers.

**Q. Are you also familiar with the manner in which Illinois utilities provide delivery services to their customers?**

A. Yes. I am familiar with the retail choice program in Illinois, and the manner in which Illinois utilities provide delivery services to their customers.

**Q. Please explain how SCE provides "delivery services" to its customers.**

A. I understand the term "delivery services" to have the meaning set forth in the Illinois Public Utilities Act (the "Act"):

45 'Delivery services' means those services provided by the electric  
46 utility that are necessary in order for the transmission and  
47 distribution systems to function so that retail customers located in  
48 the electric utility's service area can receive electric power and  
49 energy from suppliers other than the electric utility, and shall  
50 include, without limitation, standard metering and billing services.

51 220 ILCS §5/16-102. Applying this definition, it is clear that SCE provides delivery  
52 services, as defined in the Act, to its customers in California. To wit, SCE provides  
53 transmission and distribution services that are necessary in order for the retail customers  
54 located in its service area to be able to receive electric power and energy from suppliers  
55 other than SCE, including, without limitation, standard metering and billing services. In  
56 other words, customers of SCE can purchase the electricity commodity from suppliers  
57 other than SCE, referred to in California as Electric Service Providers ("ESPs"), with that  
58 electric power being delivered to the customers over the transmission and distribution  
59 wires owned by SCE. Accordingly, SCE does, in fact, provide delivery services in the  
60 same manner as that defined in the Act and provided by the Illinois utilities. This fact  
61 cannot be disputed.

62 **Q. Please describe the manner in which SCE provides delivery services to its**  
63 **customers.**

64 A. The manner in which SCE provides delivery services to the end-use customers is  
65 substantially similar to the delivery services provided by the utilities in Illinois. The only  
66 difference is minor and relates to the billing of SCE's direct access customers who buy  
67 their energy needs from an alternative provider. Until July 27, 2002, SCE charged these  
68 customers a bundled rate, but then credited them an amount equivalent to the generation  
69 portion of their applicable bundled service rate, resulting in these customers paying only

the non-generation rate components. Since that date, SCE's direct access customers have been credited with the generation component of the rate less 2.7 cents/kWh. The 2.7 cents/kWh was adopted by the CPUC to cover the costs imposed by direct access customers on SCE and the State of California Department of Water Resources ("DWR") during the California energy crisis. MGES has provided the Commission with rate schedules that demonstrate how the credit is calculated. (See Attachments A and B to MGES' Response to Administrative Law Judge's Ruling ("ALJ Ruling"), which was served on November 21, 2002.)

**Q. Has open access been suspended in California?**

A. Yes. In California, direct access or customer choice was suspended pursuant to Assembly Bill 1X ("AB 1X"), which added Section 80110 to the California Water Code. The pertinent provisions of AB 1X direct the CPUC to determine the appropriate date for suspension of the direct access program in California. The CPUC issued an interim order in Decision 01-09-060, suspending the direct access program effective September 20, 2001. In that interim order, the CPUC put parties on notice that the CPUC could modify the interim order to include suspension of all direct access contracts executed or agreements entered into on or after July 1, 2001 if the appropriate surcharges to prevent cost shifting from direct access customers to bundled service customers are not adopted.

**Q. Are you aware as to when this direct access suspension will be lifted?**

A. No. I am not aware of a specific date on which the direct access suspension will be lifted. California Water Code Section 80110 links the suspension to the period of time in which the California Department of Water Resources is supplying power under the provisions of AB 1X. I should, however, note that AB 117 signed by California Governor Davis on

September 24, 2002 allows any city, county or city and county, not within a local publicly owned electric (municipal) utility, to aggregate the load of its residents, businesses, and municipal facilities in a community-wide electricity buyers' program. Customers in the community who do not wish to participate in the program are given an opportunity to opt out. AB 117 (Cal. Pub. Util. Code Section 366.2 (c) (1)) provides that a community choice aggregator may "solicit bids, broker, and contract for electricity and energy services for those [aggregated] customers." Therefore, the opportunity for customers to buy their energy from an ESP has been restored if those customers elect to participate in a community aggregation program, provided that they pay their fair share of the utility and the DWR costs incurred on their behalf while they participate in the aggregation program.

**Q. Are current direct access customers precluded from changing electric suppliers?**

A. No. In Decision 02-03-055, adopted on March 21, 2002, the CPUC confirmed September 20, 2001 as the date the direct access program in California was suspended. This decision also confirmed that customers taking direct access as of the suspension date may switch to a new ESP. MGES provided a copy of this decision to the Commission. (See Attachment C to MGES' Response to ALJ's Ruling, which was served on November 21, 2002.)

**Q. Has the suspension of direct access affected the ability of entities to obtain certification to sell electricity at retail?**

A. No. Entities that are not currently authorized to sell electricity at retail in California may legally be authorized. Under California law and regulation, the rules for qualification as an ESP are contained in each regulated electric utility's tariff rules. SCE's Tariff Rule 22

contains the procedures for the ESPs in the SCE service territory. A copy of Tariff Rule 22 was provided as Attachment D to MGES' Response to ALJ's Ruling, which was served on November 21, 2002. The provisions for ESP authorization are found in section D of Tariff Rule 22. These provisions have not been suspended.

Additionally, an electric service provider which seeks to serve residential and small commercial customers must also register with the CPUC. The registration requirements have not been suspended.

I should also note that one ESP, the City of Corona, filed a petition to clarify or modify Decision 02-03-055. The petition simply requested confirmation by the CPUC that Decision 02-03-055 did not suspend a utility distribution company's ("UDC") obligation to continue to execute a service agreement with an ESP who had not previously offered direct access services in the UDC's service territory. The CPUC granted the petition in Decision 03-01-078 issued on January 30, 2003, a copy of which is attached hereto as Exhibit A to this testimony. This decision is substantially the same as the ALJ draft, which was provided as Attachment E to MGES' Response to ALJ's Ruling, which was served on November 21, 2002.

**Q. Do existing direct access customers have the ability to switch to new ESPs?**

A. Yes. Customers that had signed direct access contracts prior to September 20, 2001, may legally switch to a supplier that was authorized prior to September 20, 2001 or after that date.

**Q. Are you generally aware of the recent decision of the *International Bd. Of Elec. Workers v. Illinois Commerce Comm'n and WPS Energy Services, Inc. and***

*Blackhawk Energy Services, L.L.C.*, 331 Ill App. 3d 607, 772 N.E. 2d 340, 265 Ill.Dec. 302 (5th Dist. 2002) (“IBEW”)?

A. Yes, I am.

**Q. Do the delivery services provided by SCE satisfy the result required by the IBEW decision?**

A. Yes. The delivery services provided by SCE satisfy the result required by the IBEW decision. The IBEW Court stated:

We agree with petitioners’ arguments that the construction offered by WPS and the Commission would give a new entrant an opportunity *to take an unreasonable advantage over the existing utilities*, for it would allow a new entrant into the Illinois utility market without providing the Illinois utilities affected by the new entrant an opportunity to also compete in the market of the new entrant, *hence allowing the new entrant to take an unreasonable advantage of the investments made by the formerly regulated industry*.

(Emphasis added).

Illinois utilities or their affiliates have the opportunity to enter the market in California.

Additionally, such Illinois utilities or their affiliates have the ability to utilize the investments of SCE, as SCE has tariffs on file that allow a third-party provider the use of its wires (investments) in order to deliver power to an end-use customer.

**Q. Please summarize your testimony.**

A. In sum, pursuant to Section 16-115(d)(5) of the Act, the IBEW decision requires that an affiliate of an applicant “provides delivery services to the electric utility or utilities in whose service area or areas the proposed services will be offered that are reasonably comparable to those offered by the electric utility.” 220 ILCS 5/16-115(d) (5). The



164 services are to be comparable; neither the statute nor the court focused on the size of the  
165 direct access market in the other state. MGES' affiliate, SCE, provides delivery services  
166 in a manner reasonably comparable to the manner in which such services are provided  
167 here in Illinois.

168 **Q. Does this complete your testimony?**

169 **A. Yes.**